

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARREL L. SMITH,

Plaintiff,

No. CIV S-04-0702 MCE EFB P

vs.

KING, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

Plaintiff is a prisoner, without counsel, seeking damages for alleged civil rights violations. *See* 42 U.S.C. § 1983. He claims that defendant King was deliberately indifferent to his safety by releasing confidential information about plaintiff's enemies. On May 25, 2006, plaintiff filed a motion for a temporary restraining order and a preliminary injunction. He seeks an order directing the law librarian, Mrs. Russell, to respond to his "paging request for cop[ies], paper and case law."

Only parties or non-parties with notice who are shown to be in active concert or participation with defendants may be enjoined under Federal Rule of Civil Procedure 65. *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 395 U.S. 100, 112 (1969). Mrs. Russell is not a party to this action and plaintiff does not allege that she has acted in concert or participation with

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1 defendant King to violate plaintiff's rights. In fact, plaintiff does not mention defendant King in
2 his motion.

3 For these reasons, it is hereby RECOMMENDED that plaintiff's May 25, 2006, motion
4 for a temporary restraining order and a preliminary injunction be denied.

5 These findings and recommendations are submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after
7 being served with these findings and recommendations, any party may file written objections
8 with the court and serve a copy on all parties. Such a document should be captioned "Objections
9 to Magistrate Judge's Findings and Recommendations." Failure to file objections within the
10 specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158
11 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

12 Dated: January 17, 2007.

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15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
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